Federal Court  Cour fédérale

Date: 20250910

Docket: IMM-8569-24

Citation: 2025 FC 1500

Toronto, Ontario, September 10, 2025

PRESENT: Mr. Justice Brouwer

BETWEEN:

DILAFRUZ BAHODIR KIZI KASIMOVA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Dilafruz Bahodir Kizi Kasimova seeks judicial review of a decision by Immigration, Refugees and Citizenship Canada [IRCC] rejecting her application for a temporary resident visa. She argues that the IRCC Migration Officer unreasonably relied on a document filed in a withdrawn application to reject her application and to find her inadmissible for misrepresentation. For the reasons set out below, I will allow her application.

I. Background

[2] Ms. Kasimova is a citizen of Uzbekistan. On July 18, 2023, while visiting the USA with her two children, she applied for temporary resident visas to Canada for herself and her children. Nine days later, on July 27, 2023, she withdrew her application, explaining that she had discovered "significant mistakes" and "errors and omissions" in the documents she had provided, which included a letter from the Asia Alliance bank. She wrote that the mistakes were unintentional and that she would "correct and update" the documents before reapplying. IRCC confirmed the withdrawal by letter dated September 7, 2023.

[3] On August 18, 2023, Ms. Kasimova submitted a fresh application, replacing the letter from Asia Alliance bank with a fresh one and adding in a letter from Bank of America.

[4] By letter dated February 21, 2024, a Migration Officer issued a Procedural Fairness Letter [PFL] raising concerns about Ms. Kasimova's application and providing 10 days to respond:

> I have concerns that you have not fulfilled the requirement put upon you by subsection 16(1) of IRPA which states that a person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonably requires.
>
> Specifically, I have concerns regarding the credibility of the financial information presented.
>
> Please note that if it is found that you have engaged in misrepresentation in submitting your application, you may be found to be inadmissible under section 40(1)(a) of IRPA. A finding of such inadmissibility would render you inadmissible to Canada for a period of five years according to section 40(2)(a) of IRPA.

[5] Ms. Kasimova responded on February 28, 2024, with a letter and copies of bank statements from her local Uzbekistan bank, Ipak Yuli, and from Bank of America, as well as an updated employment letter.

[6] The PFL was resent on March 18, 2024, this time with some explanation of the basis for the Officer's concern:

> On a previous application submitted in July 2023, you submitted a bank statement from Asia Alliance bank purporting to contain 4,271 EUR. Through direct verification with the bank, we determined that this statement was fraudulent. While this bank statement was not included on this application, it has severely diminished the credibility of the financial documentation submitted on this application. As such, I have concerns that the Bank of America statement provided is also fraudulent or has been fraudulently obtained.

[7] Ms. Kasimova responded on March 21, 2023, stating that the Asia Alliance Bank statement she had filed with her withdrawn application included incorrect information and attaching an updated Asia Alliance letter along with detailed bank statements from that bank and from Bank of America.

II. Decision under review

[8] By decision dated March 26, 2024, the Officer rejected her application. The refusal letter provides the following rationale:

> • You have been found inadmissible to Canada in accordance with paragraph 40(1)(a) of the Immigration and Refugee Protection Act (IRPA) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of the IRPA. In accordance with paragraph A40(2)(a), you will remain inadmissible to Canada

> for a period of five years from the date of this letter or from the date a previous removal order was enforced.
>
> • You have submitted documentation that lacks authenticity as part of your application.

[9] This Court's jurisprudence establishes that notes included by decision-makers in the Global Case Management System [GCMS] form a part of the decision-maker's reasons, and are therefore relevant to reasonableness review (*Bagga v Canada (Citizenship and Immigration)*, 2022 FC 454 at para 16; *Song v Canada (Citizenship and Immigration)*, 2019 FC 72 at para 18; *Wang v Canada (Citizenship and Immigration)*, 2018 FC 368 at para 9 and cases cited therein). In the case at bar, the GCMS note of the same date as the refusal letter states:

> Applicant has provided financial documents with inconsistencies in support of their application. On a previous application that has since been withdrawn, the applicant submitted banking documents that were determined to be fraudulent with the issuing authority. A PFL was sent, with the client only providing new bank statements from the same accounts, including a Bank of America account as well as her Asia Alliance Bank account. Limited to no information was provided by the client to disabuse my concerns regarding the validity of the funds provided in her Asia Alliance Bank account.
>
> Based on the application, I am satisfied that the applicant uttered a false document in support of the application. This information is material to the assessment of the application; therefore, it could have led to an error in the administration of the act. The PA was provided with an opportunity to address this concern and has failed to provide any information which overcomes said concern. Therefore, based on the information on file, I am satisfied that the PA is inadmissible under A40, misrepresentation and is inadmissible to Canada for a period of 5 years as a result.
>
> Refused.

III. Issues

[10] Ms. Kasimova alleges that the Officer rendered an unreasonable decision by relying on evidence that was part of a withdrawn application rather than on the evidence that was actually submitted with the application.

[11] Reasonableness review involves assessing a decision to determine whether it bears the hallmarks of justification, transparency and intelligibility, and is justified in relation to the relevant factual and legal constraints that bear on the decision (*Canada (Minister of Citizenship and Immigration) v Vavilov,* 2019 SCC 65 at para 99 [*Vavilov*]). Decision-makers must base their decisions on the evidentiary record and the "general factual matrix." (*Vavilov* at para 126). As Justice William Pentney explained in *Li v. Canada (Citizenship and Immigration),* 2023 FC 147 at paragraph 26, "While a decision does not need to be perfect to be reasonable, the expectations rise in proportion to the impact of the decision on the person affected (Vavilov at para 133)." In the case at bar, the decision imposes a five-year bar on re-entry, which this Court has recognized is a particularly harsh consequence (*Lamsen v. Canada (Citizenship and Immigration)*, 2016 FC 815 at para 24 [*Lamsen*]).

[12] Although in my view the issue raised by Ms. Kasimova could also be framed as a procedural fairness breach, the assessment of which entails no deference to the decision-maker (*Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69 at paras 34, 54, 56), the outcome would be the same: as explained below, the decision must be set aside.

IV. Analysis

[13] Ms. Kasimova argues that the decision refusing her visa application and finding her inadmissible for misrepresentation unreasonably relies on evidence that was included in a withdrawn application without any evaluation of the evidence adduced in support of the application before the Migration Officer.

[14] I agree.

[15] Rather than assess the evidence submitted by the applicant in support of her application, the Officer embarked on a fishing expedition, verifying evidence that had been successfully withdrawn months earlier and that was extraneous to the application under review (*Jandu v Canada (Citizenship and Immigration)*, 2022 FC 1787 at para 24). What's more, the Officer failed entirely to assess the evidence that was actually relied on by Ms. Kasimova.

[16] Not only did the Officer take this extraordinary step, but the Officer also failed to provide any rationale for relying on the extraneous withdrawn evidence. Indeed, the Officer's reasoning leaves the distinct impression that they did not realize the evidence they found to be fraudulent was not actually being relied upon in the application before them:

> Based on the application, I am satisfied that the applicant uttered a false document in support of the application. This information is material to the assessment of the application; therefore, it could have led to an error in the administration of the act.

[17] The document the Officer found to be false was not “in support of the application”: Ms. Kasimova had withdrawn it along with the first application before filing the new application with updated documents. Therefore, it was not part of the application before the Officer and but for the Officer’s illegitimate fishing expedition could not reasonably have led to an error in the administration of the Act.

[18] The Respondent relies on *Sheikh v Canada (Minister of Employment and Immigration),* [1990] 3 FC 238 [*Sheikh*] to argue that there is a “long-standing principle that non-credible documents can validly cast a shadow over other documents that appear fine on the surface.” With respect, even if I were to accept counsel’s characterization of the holding in *Sheikh,* it does not assist her in the case before me. The finding in *Sheikh* arose from evidence given by the Applicant in the same matter. The issue here is that the Officer reached into a different, withdrawn application to make a negative credibility finding about the withdrawn evidence, and then applied that negative credibility finding to the application that was actually before them. *Sheikh* does not shield such a finding from review.

[19] The Respondent also relies on *Da Costa Serrano v Canada (Citizenship and Immigration),* 2022 FC 174, to argue that officers “generally need not re-check with a source implicated in a fake document before reviewing subsequent information.” She acknowledges that the circumstances of the case at bar are different but asserts that the decision establishes that “non-credibility findings from one document can have a trickle down effect.” Again, while that characterization may or may not be true, *Da Costa Serrano* does not stand for the proposition that an officer can reasonably reach into a previous, withdrawn application to verify a document

that was submitted with that previous application only, to ground a misrepresentation determination.

[20] Finally, regarding Ms. Kasimova's argument that the Officer should have verified the evidence she submitted with her application rather than the withdrawn one; while I agree with the Respondent that "forcing already over-worked visa officers to verify specific documents is not something that should be done in the absence of strong facts," if the Officer was going to exercise the discretion to verify banking documents, then that discretion should have been exercised reasonably. It was not reasonable for the Officer to verify the withdrawn evidence to the exclusion of the new evidence in the application before them.

[21] As Justice Alan Diner observed in *Lamsen* at paragraph 31, "Officers must be vigilant that … misrepresentation findings are sound, given their serious and lasting consequences." The findings under review fall short of that standard. Consequently, the application must be granted.

[22] Neither party has proposed a question for certification, and I agree that none arises.

JUDGMENT in IMM-8569-24

THIS COURT'S JUDGMENT is that:

1. The application is granted.

2. The decision dated March 26, 2024, is set aside. The matter is returned for redetermination by a different officer in accordance with these reasons. The Applicant shall have an opportunity to update her application prior to the rendering of the redetermination decision.

3. No question is general importance is certified.

"Andrew J. Brouwer"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-8569-24
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